

Page 69

1 A I would say that's possibly.

2 Q Would that include communicating it to the mother  
 3 of the child that made the complaint?

4 A If it evolved to that point.

5 Q If -- I'm sorry. If what evolved?

6 A Well, this is all an assumption. Everything is an  
 7 assumption. Did you say that a mother came in and said that  
 8 a child, not her child? Am I right?

9 Q Just a woman in the ward, a ward worker, a  
 10 volunteer hypothetically in the Primary, receives this  
 11 report from a child and she conveys it to you.

12 A And so then I would --

13 Q And my question is: Would you find it appropriate  
 14 to convey this confidential information to the mother of  
 15 that child?

16 A I would have to have more groundwork on it before  
 17 I did that. I would probably -- if I felt that there was a  
 18 substantive basis for it, I would talk to the mother.

19 Q If you felt that there was a substantive basis for  
 20 the accusation?

21 A But there's footnote to that. The person that  
 22 came to me, if they came with the idea that, Bishop, I want  
 23 to talk with you, this is in confidence, that particular  
 24 individual's name, circumstance, involvement would not --  
 25 that would be held confidential.

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1 Q Would you communicate this information to the  
 2 police?

3 A Not necessarily, no.

4 Q Would you communicate it to the local Child  
 5 Protective Services agency?

6 A No.

7 Q Would you attempt to substantiate the accusation  
 8 yourself?

9 A I suspect I would, uh-huh (affirmative).

10 Q How?

11 A It would depend on the circumstance. It would  
 12 depend on the people. It would depend on the emotions. It  
 13 would depend on a gamut of things, a wide range of things  
 14 that would all focus in on is this legitimate, is this real,  
 15 or is it just an accusation, is it somebody that's upset  
 16 with somebody and angry, whatever it might be.

17 Q Have you ever actually had to conduct such an  
 18 investigation?

19 A I'm sorry?

20 Q Have you ever actually been presented with a  
 21 scenario like this?

22 A I'm going to have a difficulty answering that  
 23 question --

24 MR. FREY: Again, I'm going to instruct you if  
 25 that's going to cause you -- or require you, pardon me, to

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1 go ahead and disclose any type of information that you  
 2 received in your position as a clergy member.

3 For the record, I want to make this clear,  
 4 Counsel. I'm quoting from State v. Martin so we'll know  
 5 exactly what we're talking about. And they there say that  
 6 rather than the statute -- "Rather, the statute only  
 7 requires the clergy member receiving the confidential  
 8 communication be enjoined by the practices or rules of the  
 9 clergy member's religion to receive the confidential  
 10 communication and to provide spiritual counseling." That's  
 11 what I'm trying to protect him with.

12 MR. KOSNOFF: That's one of the elements.

13 MR. FREY: Okay. Well --

14 MR. KOSNOFF: They didn't throw out the elements  
 15 of the statute, and I'm very well-acquainted with State v.  
 16 Martin.

17 Q (By MR. KOSNOFF) Let's get back to -- let's get  
 18 back to Mr. Loholt. You testified earlier that you spoke  
 19 with Jack Loholt. Are you asserting the privilege with  
 20 respect to your communication with Jack Loholt regarding any  
 21 allegations of child sexual abuse?

22 A As being confidential?

23 Q Yes.

24 A Yes.

25 Q Did you speak with anybody else other than Jack

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1 Loholt regarding information that he may have engaged in  
 2 sexual misconduct with a child?

3 A No.

4 Q So anything that was said between Jack Loholt and  
 5 yourself was kept strictly to yourself. Is that correct?

6 A I can't speak for Jack Loholt. It was kept within  
 7 me.

8 Q Was that information shared with anyone else on  
 9 the bishopric, such as your first or second counselor?

10 A What information?

11 Q Any information that Jack Loholt may have engaged  
 12 in sexual misconduct with a child.

13 MR. FREY: Again, these communications between you  
 14 and your counselors are also privileged, but go ahead.

15 A So the answer -- I guess my answer would be -- is  
 16 my discussion with my counselors would be confidential. I  
 17 don't -- I don't remember discussing that with anybody.

18 Q So you have no recollection of discussing with  
 19 anybody else?

20 A I have no recollection of that.

21 Q Okay.

22 A That's correct. I do not.

23 Q Did you remove Jack Loholt from any positions  
 24 working with youth in the ward while you were bishop?

25 A Did I remove him?

18 (Pages 69 to 72)

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1 Q Yes.  
 2 A Released him --  
 3 Q Okay.  
 4 A -- yes.  
 5 Q And what positions did you release him from?  
 6 A His responsibility in scouting.  
 7 Q Why did you release him?  
 8 MR. FREY: You can't --  
 9 A I can't divulge that.  
 10 Q I'm not asking you to reveal any communications.  
 11 I'm asking you your personal reasons why you released him  
 12 from scouting.  
 13 MR. FREY: Same objection. You're entitled to  
 14 claim the privilege.  
 15 One reveals the other, Counsel.  
 16 Q (By MR. FREY) Isn't it a fact that you removed  
 17 Jack Loholt from scouting because you knew that he presented  
 18 a danger to boys of sexual abuse?  
 19 A I -- I am not going to answer that.  
 20 Q Did anybody ask you why you were releasing Jack  
 21 Loholt from scouting?  
 22 A Nobody asked me why I was releasing him that I can  
 23 remember.  
 24 Q Did you make any announcement to members of the  
 25 ward, either in a general meeting or in meetings of any

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1 Loholt to LDS Social Services for sexual deviancy?  
 2 A I have no recollection of doing that.  
 3 Q Did you ever at any time tell anybody that they  
 4 should not allow Jack Loholt to work with or around their  
 5 children?  
 6 A Did -- do I remember telling anybody that?  
 7 Q Anybody.  
 8 A I do not remember that.  
 9 Q If as bishop you had determined that an assistant  
 10 scoutmaster was sexually molesting boys, what would you have  
 11 done to warn or protect children within the ward from that  
 12 assistant scoutmaster?  
 13 MR. FREY: For the record, I'm going to object to  
 14 the question. It assumes, No. 1, facts not in evidence, and  
 15 the question is incomplete.  
 16 Go ahead. Object to the form.  
 17 A What would I do if an assistant scoutmaster was, I  
 18 guess, taking liberties, immoral liberties, or how would you  
 19 say it?  
 20 Q Yes, sexual -- you had credible reason to believe  
 21 that a scoutmaster or assistant scoutmaster was sexually  
 22 abusing kids in the ward.  
 23 A If I had that credible --  
 24 Q Yes.  
 25 A I would -- if I had that, that that was happening,

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1 units within the ward, that Jack Loholt should not be  
 2 permitted to work with or around children?  
 3 A I don't recall any such thing.  
 4 Q Was -- was LDS Social Services available to you as  
 5 a bishop for referrals when you were bishop of the Kent  
 6 Second Ward?  
 7 A I can't remember the dates. It seemed like it was  
 8 just coming into the fore, and I don't remember when. And  
 9 so I -- I don't remember that.  
 10 Q Did you send Jack Loholt to LDS Social Services  
 11 for any reason?  
 12 A I don't remember doing that.  
 13 Q Are you saying you didn't?  
 14 A I say I don't remember ever doing that. It was a  
 15 long time ago.  
 16 Q You have no recollection of sending Jack Loholt to  
 17 LDS Social Services for sexual deviancy counselling?  
 18 MR. FREY: Counsel, I'm going to object to this  
 19 question. You've asked it three times now, and he's  
 20 answered the question twice already saying he has no memory  
 21 of it. I think your badgering the witness.  
 22 You can answer it one more time, and then we're  
 23 not going to answer it again.  
 24 A What was it again?  
 25 Q You have no recollection of having released Jack

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1 I would -- I would talk to my stake president if I had that  
 2 kind of information, that it was credible.  
 3 Q Did you ever speak to your stake president  
 4 regarding Jack Loholt?  
 5 A Not specifically, no.  
 6 Q Did you ever speak with your stake president  
 7 generally about -- without identifying the individual, a  
 8 concern about a scoutmaster, assistant scoutmaster molesting  
 9 children?  
 10 MR. FREY: Object to the form of the question.  
 11 What time period are we talking about now?  
 12 MR. KOSNOFF: When he was bishop of the Kent  
 13 Second Ward.  
 14 MR. FREY: Okay. Again, as long as this doesn't  
 15 violate any type of confidence that you have between your  
 16 counselors and your stake president in your ecclesiastical  
 17 position.  
 18 A That's what I'm wrestling with, and I believe it  
 19 does. I don't believe I can answer that question.  
 20 Q (By MR. KOSNOFF) So did I understand, your  
 21 hesitancy to answer the question is that you're taking the  
 22 privilege -- or the position that any communication between  
 23 you and the stake president is also privileged?  
 24 A Anything that would break confidentiality I take  
 25 as an ecclesiastical privilege, yes.

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1 Q So you're saying that any communication that you  
2 had with the stake president about information you regarded  
3 as confidential would itself be privileged?  
4 A I think what I'm saying is that there was nothing  
5 said that would be confidential with names involved, and to  
6 get into that, then I'm breaking confidentiality.  
7 Q When you were bishop, was Jack Loholt ever the  
8 subject of either formal or informal church discipline?  
9 A No.  
10 Q Was Jack Loholt ever returned to positions working  
11 with youth in the ward while you were bishop?  
12 A Not to my knowledge, no.  
13 Q If he had, would that have been a concern to you?  
14 MR. FREY: Again, if you can answer that question  
15 without breaching any of your confidentiality obligations as  
16 a bishop, you may answer it.  
17 A Yeah, I can't answer the question.  
18 Q When you were bishop, how old were your children?  
19 A How old were they?  
20 Q Yes.  
21 A Got your pencil?  
22 Q Give me approximate ages. Kyle was 45 -- is 45  
23 now.  
24 A I'm going to say they were between 12 and 14,  
25 right in there.

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1 Q Okay. After you removed Jack Loholt from  
2 positions working with youth in the ward, did you ever  
3 permit Jack Loholt to be alone with your children?  
4 MR. FREY: Object to the form of the question.  
5 That isn't what he testified to, Counsel. You misstated the  
6 evidence.  
7 A Permit?  
8 Q Or allow?  
9 A It never happened. I don't -- there's no permit  
10 or allow. It never happened.  
11 Q Okay. All right. So there was never an occasion  
12 after you removed Jack Loholt from scouting that your  
13 children were ever alone with Jack Loholt?  
14 A Not to my knowledge.  
15 Q Were your children in scouting in the ward?  
16 A Uh-huh (affirmative).  
17 THE COURT REPORTER: Excuse me. Yes?  
18 A Yes.  
19 Q Were they in scouting in the ward when Jack Loholt  
20 was involved in scouting?  
21 A I believe so.  
22 Q How do you know that your children were never  
23 alone or with Jack Loholt? And when I say alone, I mean  
24 with no other adults present.  
25 A That's why I said not to my knowledge. I don't

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1 know, but to my knowledge they weren't.  
2 Q Have you ever inquired of your own children  
3 whether or not Jack Loholt ever did anything of a sexually  
4 inappropriate nature to them?  
5 A I'm not willing to answer that.  
6 Q Whether you did or didn't?  
7 A Yeah, I'm not willing to answer that question  
8 because you used the word ever.  
9 Q Okay. Let me rephrase the question. At any --  
10 A Actually the answer to that question is: No, I  
11 didn't. The question you asked, the answer is no.  
12 Q Okay. You've never spoken to any of your children  
13 as to whether Jack Loholt ever did anything of a sexually  
14 inappropriate nature to them?  
15 A I have not. I did not. I have never asked them  
16 that.  
17 Q Have -- and have any of your children ever  
18 volunteered to you whether Jack Loholt had ever done  
19 anything of a sexually inappropriate nature to them?  
20 A No.  
21 Q After you were released as bishop, is it your  
22 recollection that you left Washington for Utah fairly soon  
23 after that?  
24 A That's my recollection.  
25 Q And have you resided for any length of time in

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1 Washington state since you left?  
2 A Pardon me. I went up there for a summer to play  
3 baseball.  
4 Q Approximately what year?  
5 A It would be the summer or the second summer, I  
6 believe, after we came down here.  
7 Q Were you some kind of semipro baseball player, or  
8 was this a recreational --  
9 A This is just a rec -- yeah, just a rec, just to  
10 get together.  
11 THE VIDEOGRAPHER: I have 90 seconds.  
12 A But also I had all my family up there, sisters and  
13 brothers.  
14 MR. NASH: Did you hear, he has 90 seconds?  
15 Q (By MR. KOSNOFF) All right. So I take it by your  
16 answer this was recreational baseball, and it wasn't in any  
17 professional capacity?  
18 A No, it was not professional.  
19 MR. KOSNOFF: Okay. Why don't we take our break  
20 so the court reporter (sic.) can change tapes.  
21 (Recess taken 11:16 a.m. to 11:27 a.m.)  
22 THE VIDEOGRAPHER: This is tape No. 3 of the  
23 deposition of Bishop Randall Borland. The time is 11:27.  
24 Q (By MR. KOSNOFF) Bishop Borland, just to tie up a  
25 few loose ends, I want to go back and identify the date, if

Page 78

1 Q Okay. After you removed Jack Loholt from  
2 positions working with youth in the ward, did you ever  
3 permit Jack Loholt to be alone with your children?  
4 MR. FREY: Object to the form of the question.  
5 That isn't what he testified to, Counsel. You misstated the  
6 evidence.  
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8 Q Or allow?  
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10 or allow. It never happened.  
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12 after you removed Jack Loholt from scouting that your  
13 children were ever alone with Jack Loholt?  
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15 Q Were your children in scouting in the ward?  
16 A Uh-huh (affirmative).  
17 THE COURT REPORTER: Excuse me. Yes?  
18 A Yes.  
19 Q Were they in scouting in the ward when Jack Loholt  
20 was involved in scouting?  
21 A I believe so.  
22 Q How do you know that your children were never  
23 alone or with Jack Loholt? And when I say alone, I mean  
24 with no other adults present.  
25 A That's why I said not to my knowledge. I don't

Page 79

1 know, but to my knowledge they weren't.  
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3 whether or not Jack Loholt ever did anything of a sexually  
4 inappropriate nature to them?  
5 A I'm not willing to answer that.  
6 Q Whether you did or didn't?  
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8 because you used the word ever.  
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11 didn't. The question you asked, the answer is no.  
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13 as to whether Jack Loholt ever did anything of a sexually  
14 inappropriate nature to them?  
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16 that.  
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18 volunteered to you whether Jack Loholt had ever done  
19 anything of a sexually inappropriate nature to them?  
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22 recollection that you left Washington for Utah fairly soon  
23 after that?  
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Page 80

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3 baseball.  
4 Q Approximately what year?  
5 A It would be the summer or the second summer, I  
6 believe, after we came down here.  
7 Q Were you some kind of semipro baseball player, or  
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9 A This is just a rec -- yeah, just a rec, just to  
10 get together.  
11 THE VIDEOGRAPHER: I have 90 seconds.  
12 A But also I had all my family up there, sisters and  
13 brothers.  
14 MR. NASH: Did you hear, he has 90 seconds?  
15 Q (By MR. KOSNOFF) All right. So I take it by your  
16 answer this was recreational baseball, and it wasn't in any  
17 professional capacity?  
18 A No, it was not professional.  
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20 so the court reporter (sic.) can change tapes.  
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22 THE VIDEOGRAPHER: This is tape No. 3 of the  
23 deposition of Bishop Randall Borland. The time is 11:27.  
24 Q (By MR. KOSNOFF) Bishop Borland, just to tie up a  
25 few loose ends, I want to go back and identify the date, if

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1 we can, when Jack Loholt was released by you as assistant  
2 scoutmaster of the Kent Second Ward. If you would turn to  
3 page 5 of Exhibit 1. That is the numbered page 5.  
4 A Okay.  
5 Q If you go to February 6, 1972, the entry indicates  
6 Jack Loholt was released as assistant scoutmaster on that  
7 day?  
8 A Yes, that's what it says. I don't remember the  
9 dates.  
10 Q Okay. But is that consistent with your general  
11 recollection as to when you released Jack from the scouting  
12 program?  
13 A Yes.  
14 Q And without disclosing the communication, was it  
15 fairly quickly after you received information regarding Jack  
16 Loholt?  
17 A Are you asking if that's my memory?  
18 Q Yes.  
19 A Yes, uh-huh (affirmative).  
20 Q And is it -- is it your testimony that you never  
21 spoke to the scoutmaster, why you were releasing his  
22 assistant scoutmaster?  
23 A That's correct.  
24 Q And you never told your first or second counselor  
25 the reasons why you were taking that action?

21 (Pages 78 to 81)

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September 20, 2005

RANDALL BORLAND

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1 A I don't believe I did, huh-uh (negative). I  
 2 didn't divulge that, no.  
 3 Q And nobody questioned you why you did that?  
 4 A To my knowledge, no. But maybe said, What are you  
 5 doing this for? I don't remember that, though. I don't  
 6 remember anybody questioning.  
 7 Q Did Jack Loholt argue or resist in any way your  
 8 decision to remove him as assistant scoutmaster?  
 9 MR. FREY: I'm going to object to the question  
 10 because it calls for him to reveal what Jack Loholt may or  
 11 may have not said to him in his capacity as clergy.  
 12 Q (By MR. KOSNOFF) Did Jack Loholt appear to accept  
 13 your decision releasing him?  
 14 MR. FREY: Same objection. Instruct the witness  
 15 he does not have to answer if it requires him to divulge  
 16 information he learned in any communication which was  
 17 privileged.  
 18 Q (By MR. KOSNOFF) Go ahead. I think you can answer  
 19 that.  
 20 THE WITNESS: Can I answer?  
 21 MR. FREY: Well, I'm just telling you --  
 22 Q (By MR. KOSNOFF) My question was how he appeared.  
 23 Did his appearance and general demeanor seem to be one of  
 24 acceptance of your decision?  
 25 A He accepted my decision.

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1 Q Did you -- tell me everything you did to make sure  
 2 that Jack Loholt, notwithstanding the fact that you had  
 3 released him as assistant scoutmaster, was not continuing to  
 4 work in the scouting program?  
 5 A I can't remember. I can't remember.  
 6 Q Did you ever attend any scout meetings after you  
 7 released Jack Loholt to determine whether or not he was  
 8 attending those meetings?  
 9 A To determine if he was attending them?  
 10 Q Yes.  
 11 A I can't remember doing so.  
 12 Q Were you aware of where Jack Loholt was living  
 13 when you released him as assistant scoutmaster?  
 14 A I'm not sure of that. I can't remember  
 15 specifically where he was, no.  
 16 Q Do you have any recollection of him living at the  
 17 Allenbach compound?  
 18 A The what?  
 19 Q The property where the Allenbach -- the Herman  
 20 Allenbach family lived.  
 21 A I seem to recollect him being there. If he lived  
 22 there or not, I don't remember that. I do not remember  
 23 that.  
 24 Q Do you remember being aware of whether or not Jack  
 25 Loholt had a relationship with Herman Allenbach?

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1 A What does relationship mean?  
 2 Q A business relationship.  
 3 A He might have worked on his dentist office one  
 4 time. I can't remember that. I don't remember that for  
 5 sure.  
 6 Q You have no recollection of a close business  
 7 association between Dr. Allenbach and Jack Loholt?  
 8 MR. FREY: Object.  
 9 A Business association, no.  
 10 Q Do you have any recollection of whether Jack  
 11 Loholt either lived either on the Allenbach property or in  
 12 one of Mr. -- or Dr. Allenbach's rental homes?  
 13 A I don't have a recollection of that.  
 14 Q With respect to the communication that you  
 15 received to which you've asserted a privilege that resulted  
 16 in you removing Jack Loholt from scouting, did you -- would  
 17 the assertion of your privilege be the same if I were to  
 18 provide you with a written waiver from the person who made  
 19 that communication authorizing you to specifically talk  
 20 about that communication with me?  
 21 A My confidentiality would remain.  
 22 Q Why?  
 23 A Maybe I didn't understand your question.  
 24 Q My question is: If I was able to give you written  
 25 authorization from the source of that communication --

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1 A Oh, from the source? Go ahead. Continue.  
 2 Q -- that communication authorizing you to reveal  
 3 that communication, would you then reveal it to me?  
 4 A I'm not sure. Be written and -- it couldn't just  
 5 be written, it would have to be verbal. I'm not sure. I  
 6 would have to analyze my thinking on the confidential nature  
 7 of it all because it seems to me there's more than one  
 8 person involved.  
 9 Q Okay. Are you referring to yourself?  
 10 A No.  
 11 Q Okay. My -- my question is assuming that the  
 12 source of the confidential communication to which you've  
 13 asserted privilege is one individual. The purpose of my  
 14 question is to determine whether if I were to give you a  
 15 waiver, written, verbal, from that person that said you are  
 16 authorized to speak with Mr. Kosnoff about your  
 17 communication back then, would you then answer my questions  
 18 about that communication?  
 19 A You're talking about a verbal face-to-face along  
 20 with the written. I don't know. I would really have to --  
 21 I would really have to analyze my -- my thoughts on that.  
 22 At this point I just don't know.  
 23 Q Well, do you believe that even with a waiver from  
 24 the person that made the communication which you're treating  
 25 as confidential and privileged that you would not be able to

22 (Pages 82 to 85)

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# Exhibit #4

Byers & Anderson, Inc.  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH FLEMING and JOHN DOE,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
THE CORPORATION OF THE PRESIDENT	)	
OF THE CHURCH OF JESUS CHRIST OF	)	No. 4-2338 RSM
LATTER-DAY SAINTS, a Utah	)	
corporation sole, a/k/a "MORMON	)	
CHURCH"; LDS SOCIAL SERVICES a/k/a	)	
LDS FAMILY SERVICES, a Utah	)	
corporation,	)	
	)	
Defendants.	)	

DEPOSITION OF PHILIP J. COLEMAN

September 15, 2005

Seattle, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

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25th Anniversary 1980-2005

Philip J. Coleman  
September 15, 2005

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1 A I can't infer the second from the earlier, but that  
2 was a statement of fact of the position.

3 Q Okay.

4 A I don't recall how well Jack was doing or why he was  
5 put in the position.

6 Q He was already in that position when you became  
7 bishop?

8 A I don't recall that either.

9 Q At some point during the three years that you were  
10 bishop, did someone bring to your attention an  
11 allegation that Jack LoHolt was sexually molesting  
12 boys?

13 A In the specific, I have to say no to sexually  
14 molesting.

15 Q What about generally?

16 A In the general to sexually molesting, I have to say  
17 no.

18 Q Did you receive any information of any kind from any  
19 person that Jack LoHolt was allegedly engaging in  
20 sexually inappropriate activity?

21 A Yes.

22 Q From who whom did you learn that?

23 MR. FREY: I am going to object at this  
24 point in time.

25 Let me tell you the basis for the objection.

Philip J. Coleman  
September 15, 2005



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1 and the witness wants to clarify the answer is maybe  
2 the best way to put it.

3 Q (By Mr. Kosnoff) Dr. Coleman, do you want to clarify  
4 an earlier answer?

5 A If I may.

6 With regard to an individual making me aware of  
7 something that happened between her sons and Jack  
8 LoHolt, the answer is yes, and the answer is that  
9 there was an exposure.

10 In my own mind, at least at the time, maybe not  
11 now, that did not constitute abuse.

12 That's why I gave "no" to those answers, but I  
13 wanted you to be aware of what did happen.

14 Q What was your understanding of what Jack LoHolt had  
15 done, allegedly?

16 A Exposed his private parts.

17 Q To whom and where?

18 A As I recall it--

19 MR. FREY: I am going to again instruct  
20 the witness not to say the names of who, but he can  
21 say anything else.

22 THE WITNESS: As I recall, two boys, as  
23 I recall it, on an outing, which Jack frequently took  
24 them, either fishing or camping-- he was a bit of a  
25 replacement for an absentee father.

Philip J. Coleman  
September 15, 2005

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1 Q (By Mr. Kosnoff) In fact, Jack had become kind of a  
2 surrogate father to the boys in absence of their  
3 natural father?

4 A That's calling for a judgment.

5 Q Is that your understanding?

6 A I think what I said earlier would be appropriate.

7 Q But it was your understanding that Jack had been  
8 spending a lot of time with these boys?

9 A I think so.

10 Q When you received this information, were you  
11 concerned?

12 A Indeed.

13 Q Were you very concerned?

14 A Indeed.

15 Q Okay. Being very concerned, what did you do?

16 A Spoke to Jack.

17 Q Where did that conversation take place?

18 A In the bishop's office.

19 Q Did you call him in?

20 A I did.

21 Q What was said by Jack to you?

22 A I don't recall the details, but he denied it.

23 Q Jack denied that he'd engaged in the conduct?

24 A He did.

25 Q Did Jack acknowledge, however--

Philip J. Coleman  
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1 MR. FREY: For the record, I want to  
2 make this clear because this is going to come up  
3 again.

4 In those conversations where you're acting with  
5 your bishop's hat on and you're speaking to one of  
6 your people and it involves what could be classified  
7 as a transgression within the church, you do have the  
8 right not to disclose that information.

9 On the other hand, I want you to be able to  
10 answer Counsel's question as best you can because he  
11 has a right to find out what we knew or didn't know  
12 or should have known.

13 Q (By Mr. Kosnoff) I would add whether or not a  
14 privilege really applies really depends on the  
15 circumstances and the conduct and the intent of the  
16 parties.

17 A I think in this context it would.

18 Q The question of whether or not under the doctrine and  
19 beliefs of the Mormon church and the circumstances of  
20 this communication between you and Jack, is it your  
21 belief that this was a privileged communication  
22 between bishop and member?

23 A May I make a statement?

24 The information came to me other than Jack.

25 Q I understand that, but I'm referring to the meeting

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1       that you had with Jack.

2       A    That would fall under the auspices of a privileged  
3       communication, yes, I think so.

4       Q    After you talked with Jack, did you talk with his  
5       parents?

6       A    I did.

7       Q    Where did that take place?

8       A    Bishop's office.

9       Q    Okay. What was said by the parents to you-- strike  
10      that.

11           Did you tell the parents the information that you  
12      had regarding Jack's behavior?

13      A    I did.

14      Q    What was their reaction?

15      A    Disbelief.

16      Q    Okay. After that exchange, what did you do with this  
17      information?

18      A    We released Jack from his church callings, and I  
19      notified, as I recall, at least some key individuals  
20      who would need to know about it.

21      Q    And those were priesthood leaders?

22      A    My counselors. I remember specifically-- I can't  
23      honestly say I remember talking to the young men's  
24      president, but that might have been usual, and  
25      perhaps to the Scout master, but I don't remember

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# Exhibit #5



Page 1

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
2 FOR THE COUNTY OF MULTNOMAH  
3  
4 JEREMIAH SCOTT, )  
5 Plaintiff, )  
6 vs ) No. 98-12-08640  
7 GREGORY LEE FOSTER, an )  
8 Individual; THE CHURCH OF )  
9 JESUS CHRIST OF LATTER-DAY )  
10 SAINTS, an unincorporated )  
11 association, aka, the "Mormon )  
12 Church," THE CORPORATION OF )  
13 THE PRESIDENT OF THE CHURCH OF )  
14 JESUS CHRIST OF LATTER-DAY )  
15 SAINTS, a Utah corporation sole,)  
16 CORPORATION OF THE PRESIDING )  
17 BISHOP OF THE CHURCH OF JESUS )  
18 CHRIST OF LATTER-DAY SAINTS, )  
19 a Utah corporation sole, )  
20 Defendants. )  
21  
22 DEPOSITION OF LLOYD DEAN HALE, MD  
23 Taken in behalf of the Plaintiff  
24  
25 Thursday, October 28, 1999

Page 2

1 EXHIBIT	DESCRIPTION
2 1	Curriculum Vitae
3 2	Section 10, Church Discipline - Bates Nos.
4	0010-0022
5 3	The Salt Lake Tribune - Excerpts of the
6	Interview with LDS Church Officials
7 4	Child Abuse - Helps for Ecclesiastical
8	Leaders - Bates Nos. 0118-0147 and 0104-0117
9	
10	(Exhibits attached hereto)
11	
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Page 3

1 BE IT REMEMBERED THAT, the deposition of LLOYD  
2 DEAN HALE, MD was taken before Debra C. Symonds,  
3 Registered Professional Reporter and Certified Shorthand  
4 Reporter for the State of Oregon, on Thursday, October  
5 28, 1999, commencing at the hour of 9:15 a.m., in the  
6 Conference Room of the law firm of Dunn, Carney, Allen,  
7 Higgins & Tongue, 651 SW Sixth Avenue, Suite 1500, in  
8 the City of Portland, County of Multnomah, State of  
9 Oregon.  
10  
11 --:-  
12 APPEARANCES:  
13 DUNN, CARNEY, ALLEN, HIGGINS & TONGUE  
14 By Gary E. Rhoades  
15 and  
16 Tim Kosnoff and Joel Salmi  
17 Attorneys at Law  
18 Appearing in behalf of the Plaintiff  
19 BULLIVANT, HOUSER, BAILEY  
20 By David A. Ernst  
21 Attorney at Law  
22 Appearing in behalf of the Church Defendants  
23 KILMER, VORHEES & LAURICK  
24 By Jeffrey M. Kilmer  
25 Attorney at Law  
Appearing in behalf of Defendant Foster

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1 LLOYD DEAN HALE, MD  
2 was thereupon produced as a witness in behalf of the  
3 Plaintiff and, having been first duly sworn on oath, was  
4 examined and testified as follows:  
5  
6 EXAMINATION  
7 BY-MR. SALMI:  
8 Q. Dr. Hale, please state your full name and  
9 address for the record.  
10 A. It's Lloyd, L L O Y D, Dean Hale, H A L E. I  
11 live at West Linn. 4950 Summit Street, West Linn,  
12 that's Oregon, 97068.  
13 Q. Dr. Hale, again, I'm Joel Salmi and I  
14 represent Jeremiah Scott in his lawsuit against Bishop  
15 Foster and the church defendants, I'll call them. We're  
16 going to talk about how to designate the church in this  
17 deposition in a minute, but I wanted to explain to you,  
18 you've had an opportunity to talk to your attorney today  
19 or previously about the procedure involved in a  
20 deposition?  
21 A. Yes.  
22 Q. And you understand that when you give  
23 responses to the court reporter, they need to be audible  
24 responses rather than shaking your head or nodding?  
25 A. Yes.

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1 consider to be a confession.

2 MR. SALMI: Well, Jeff, that was my question,  
3 actually, so if this is an inaccurate statement of  
4 doctrine, he can tell me. I don't see that that's  
5 legitimate.

6 MR. KILMER: Your question was not a question.  
7 Your question was, if they don't intend, in some  
8 subjective way apparently, it to be confidential, then  
9 it isn't a confession.

10 MR. SALMI: And that's what I was asking him.

11 MR. KILMER: No, that wasn't a question, that  
12 was a statement, and I am objecting --

13 MR. SALMI: I asked him to verify whether  
14 that's true or not, and that's a question. And I  
15 understand, your objection is noted. I don't think it's  
16 a valid objection, but it's noted.

17 MR. KILMER: Well, it's very valid in this  
18 case.

19 Q. (By Mr. Salmi) Let me rephrase that. Let me  
20 give you an example. If a member reports to the bishop  
21 of a church that their child has been molested by  
22 another member of the church, do you consider that a  
23 confession?

24 A. No, because I consider that the member  
25 reporting an incident.

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1 Q. And in particular, if that member, when they  
2 report this alleged molestation, ask you to do something  
3 about it, that's not a confession, is it?

4 A. No.

5 Q. Assuming that we have a confession that's a  
6 legitimate, valid confession given to a bishop, are  
7 there any circumstances under which a bishop is  
8 authorized to disclose that confession to anyone else?

9 MR. ERNST: I'm going to object to the form on  
10 the use of the word "valid confession." I don't know  
11 what that means.

12 MR. KILMER: And I object on the further  
13 ground that "anyone else" needs to be qualified as  
14 opposed to inside and outside of certain church  
15 doctrines or church hierarchy of authority.

16 A. Can you restate it for me, please?

17 Q. Yes. Under any circumstances, is a bishop in  
18 the church authorized to disclose confessions to anyone  
19 other than the person who confessed to them?

20 A. I believe he is not privileged to do that  
21 unless the person gives their consent for him to discuss  
22 it with another person who would only be the stake  
23 president.

24 Q. So unless the confessor consents, the bishop  
25 cannot disclose that confession to anyone else. Is that

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1 your testimony?

2 A. That's my understanding, yes.

3 Q. As a practical matter, in your experience, do  
4 you know bishops who share confessions that they've  
5 received with members of their bishopric?

6 A. No, I do not.

7 Q. How about sharing those confessions with the  
8 stake president of the stake over which -- or in which  
9 their ward is located?

10 A. I believe bishops ask the individual or tell  
11 the individual I need to discuss that or you will need  
12 to discuss that with the stake president. And in many  
13 cases they will call me and say a person needs to talk  
14 to you, and they don't share it unless the person has  
15 told them it's okay and they feel there's a need to  
16 prepare me, in a sense, but that's all.

17 Q. Under church policy, are children allowed to  
18 give confessions?

19 A. I believe any member who wishes can talk to  
20 the bishop and tell them about personal matters. And it  
21 wouldn't necessarily be a confession, it would be  
22 anything the person felt was confidential. They can  
23 talk to their bishop in that sense.

24 Q. But now I'm asking about a confession in  
25 particular, and let's say of a major transgression.

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1 Would that confession of a child have the same standing  
2 as a confession of any other member of the church?

3 MR. ERNST: Just a minute. I do want to ask  
4 for a clarification, Joel.

5 MR. SALMI: Sure.

6 MR. ERNST: Are you talking about confessions  
7 as a subset specifically of a specific kind of  
8 confidential information? Because he's telling you  
9 people are bringing him confidential information, but  
10 you're talking about a confession.

11 MR. SALMI: I'm talking only about  
12 confessions.

13 MR. ERNST: Do you understand that?

14 THE WITNESS: Okay.

15 Q. (By Mr. Salmi) Yeah, I'm talking only about  
16 confessions, not just about something -- you know, some  
17 private conversation you have with a member. But if  
18 someone -- if a child comes and confesses, is that  
19 considered a confession that has the same protection of  
20 confidentiality as any other confession in the Mormon  
21 church?

22 A. Yes.

23 Q. So if a child confesses to a major  
24 transgression to a bishop, that bishop is not authorized  
25 to inform the parents of that unless the child consents?

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1 A. That is my understanding.  
 2 Q. Disciplinary proceedings can be instituted  
 3 based upon confessions, can they not?  
 4 A. Yes.  
 5 Q. And that can be done even if the confessor  
 6 does not consent to further disclosure of that  
 7 confession; isn't that correct?  
 8 A. Yes.  
 9 Q. And are members advised when they confess to a  
 10 major transgression that a disciplinary proceeding could  
 11 be instituted based on that confession?  
 12 A. Yes.  
 13 Q. When such a confession is made, are they  
 14 advised what is entailed in a disciplinary proceeding?  
 15 A. That would depend on the bishop's style, but  
 16 if it's a realistic probability, he probably would.  
 17 Q. And we're going to talk about the nature of  
 18 disciplinary proceedings a little bit later, but your  
 19 understanding is that they would advise them not just  
 20 that discipline is going to be instituted but here's  
 21 what it's comprised of and describe it in some sense?  
 22 A. But probably -- maybe not at the time of the  
 23 confession. Sometimes there's a visit or two or three  
 24 before we get to that level of how are we going to  
 25 handle this.

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1 Q. So someone -- a member comes and confesses a  
 2 major transgression to a bishop, there's a conversation  
 3 about it, and maybe they come back two or three times in  
 4 their follow-up meetings with the bishop. That happens?  
 5 A. Yes.  
 6 Q. And then there would be a decision if the  
 7 bishop, for example, decides that there isn't progress  
 8 being made on taking care of this that a disciplinary  
 9 proceeding would be instituted?  
 10 A. That can happen that way, yes, provided he  
 11 discusses it with the stake president. That is, just  
 12 that there needs to be a council.  
 13 Q. I want to make reference to Exhibit 2 again,  
 14 which you have in front of you, and this would be at  
 15 Page 0011, which is I believe the second page of your  
 16 document. At the bottom of the left-hand column, the  
 17 last full paragraph, Subsection 2 reads, "Predators may  
 18 need to be identified to protect possible future  
 19 victims."  
 20 A. Uh-huh (affirmative response).  
 21 Q. Take your time and read that whole paragraph.  
 22 I won't read it into the record because it's part of the  
 23 record.  
 24 A. (Pause; referring). Okay.  
 25 Q. Now, this is under the section of the handbook

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1 entitled Confessions and Confidentiality. If someone  
 2 confesses to sexual molestation of children, to the  
 3 extent that you would consider them a predator, how are  
 4 they identified to protect possible future victims?  
 5 A. If a member confesses that type of  
 6 transgression, they are encouraged to report themselves  
 7 to local authorities, to take responsibility for their  
 8 action to the full extent of the law. So first the  
 9 member is encouraged to do so.  
 10 If a member chose not to do so, then -- and if  
 11 a disciplinary council was held, then the action of that  
 12 council would be used to inform those who might be  
 13 considered ones that should know that such as a bishop.  
 14 Even in the general priesthood session or in the adult  
 15 relief society session, if a person was a predator and  
 16 there could be victims, then they -- there would be a --  
 17 at least a general statement regarding the protection or  
 18 the watching, but the details of the person's  
 19 transgression would not be disclosed without their  
 20 permission.  
 21 Q. In the case of a sexual predator, would there  
 22 be a disclosure that they were a sexual predator?  
 23 A. With their permission, it could happen. I  
 24 have never seen that happen. Without their permission,  
 25 I do not know exactly how it would be handled. I would

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1 have to think that one through and perhaps even talk to  
 2 someone about -- other stake presidents, someone who has  
 3 experience in that area.  
 4 Q. You do not have personal experience in that  
 5 area?  
 6 A. Not as a predator.  
 7 Q. What about with someone who has confessed to a  
 8 major transgression of molesting children?  
 9 A. I have experience there.  
 10 Q. And do you have experience with that occurring  
 11 where a disciplinary council has been convened?  
 12 A. Yes.  
 13 Q. And what was the -- I just want to follow up  
 14 with this one example. What was the consequence or the  
 15 conclusion of the disciplinary council? What decision  
 16 did they reach?  
 17 MR. ERNST: You know, here I'm concerned that  
 18 we're getting into areas that are privileged. I'm not  
 19 going to let him talk about deliberations or conclusions  
 20 of actual disciplinary councils. I just don't think  
 21 that's going to be allowed by the judge.  
 22 MR. SALMI: Counsel, without identifying  
 23 anyone involved in the process, I don't see how that  
 24 could possibly violate any confidentiality, privacy or  
 25 anything else.

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1 MR. ERNST: Well, since I'm not the stake  
2 president, I can't answer that. I'm going to just  
3 instruct you that if you feel like you're having to  
4 disclose anything that may violate someone's privacy  
5 rights, then you don't answer the question. If you can  
6 do it without answering the question, go ahead.

7 MR. SALMI: Are we talking, Counsel, just for  
8 the record now, are we talking about a clergy-penitent  
9 privilege issue or are you talking about some right of  
10 privacy other than clergy-penitent privilege? I  
11 certainly don't intend to invade any clergy-penitent  
12 privilege.

13 MR. ERNST: All right. Then I guess we  
14 understand each other.

15 MR. SALMI: Is that all you're talking about  
16 or is there some other generalized privacy right which  
17 you're instructing your client not to answer if it  
18 invades?

19 MR. ERNST: Well, I'm not going to be deposed  
20 so why don't we go forward.

21 MR. KILMER: Let me just say that I believe in  
22 behalf of Bishop Foster at the time that he is deposed  
23 that there are both privacy and privilege issues  
24 involved in the discussions of individual cases, and  
25 that will certainly be involved as we discuss the merits

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1 of this particular case.

2 So although I can't advise this witness not to  
3 answer, it does seem to me, and I will assert when it's  
4 my client's turn in the barrel, that there are privacy  
5 implications as well as privilege implications here.

6 MR. SALMI: And we're going to have an  
7 opportunity to argue that before Judge Cenicerros  
8 hopefully in the not too distant future.

9 MR. KILMER: Right.

10 Q. (By Mr. Salmi) I'm asking you -- And let's go  
11 back to the line of questioning. I'm going to ask you  
12 the same question, and I would ask you that same  
13 question except I don't quite remember it so I'm going  
14 to ask the court reporter to read back the last question  
15 that I asked.

16 (Reporter read as requested)

17 Q. Dr. Hale, can you testify regarding this  
18 matter in general terms without identifying any  
19 individuals?

20 A. I believe I can.

21 Q. So again, and I repeat the question, in this  
22 situation where someone had confessed to you of  
23 molestation and a disciplinary council had been  
24 convened, what was the consequence or decision of that  
25 disciplinary council?

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1 A. The confession and all of the discussions that  
2 take place in the council are considered confidential  
3 information. So I hope -- I don't know if I'm following  
4 clearly, but the outcome of one I'm considering or  
5 thinking of, --

6 Q. Yes.

7 A. -- the member was excommunicated.

8 Q. And this will get back to what we were talking  
9 about, making reference to the section of the handbook  
10 at Page 0011, predators may need to be identified to  
11 protect possible future victims. Was there any attempt  
12 in that case made to warn members of the church about  
13 this sexual predator or this child molester?

14 MR. ERNST: I object to the form. It's very  
15 unfair, in my opinion, for you to take this second  
16 subsection out of the context of the entire paragraph,  
17 and I think you know that. It talks about disclosure of  
18 the identity of other persons, and you're focusing on  
19 something unfairly that I believe is trying to trick  
20 him, and I just won't allow him to be tricked.

21 MR. SALMI: I'm not trying to trick him, I'm  
22 simply asking him was anything done. And, Counsel, just  
23 for the record, I know that --

24 MR. ERNST: You offered Section 2.

25 MR. SALMI: -- he has had the opportunity, I

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1 specifically asked him to read this entire section --

2 MR. ERNST: Yes.

3 MR. SALMI: -- before testifying. He's had  
4 the opportunity to do it. And every time I ask a  
5 question about this, I'm not going to read the entire  
6 paragraph. He has read it.

7 Q. (By Mr. Salmi) And all I'm asking you is, was  
8 anything done to warn church members about this child  
9 molester after the excommunication decision was reached  
10 by the disciplinary council?

11 MR. ERNST: Object to the form, use of the  
12 word "child molester."

13 A. To those people who had a reason to know, the  
14 action of the disciplinary council was reported; the  
15 bishop, the priesthood leaders, the relief society and  
16 so forth. There was already general knowledge in the  
17 ward that he had had a problem, and there was really no  
18 need to go back and report to them.

19 Q. When you say there was already general  
20 knowledge in the ward, did that general knowledge in the  
21 ward exist before the initial confession was made to the  
22 bishop? I believe that was you.

23 A. No, I was stake president then.

24 Q. Oh, you were stake president, okay.

25 A. And I believe -- I don't really know how that

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1 all transpired. I would be guessing and I don't want to  
2 do that.  
3 Q. Is the fact of the convening of a disciplinary  
4 council, is that known to the ward at large?  
5 A. No.  
6 Q. That's kept secret?  
7 A. I don't like secret, but it's not broadcast.  
8 There are -- The high council knows, their wives have a  
9 right to know there's a council, that they're going to  
10 be gone for the evening, but no one knows really who is  
11 there or what's happening or what the situation is.  
12 Q. And they don't know the subject matter of the  
13 disciplinary proceeding?  
14 A. No.  
15 Q. When you say that the decision of the  
16 disciplinary council is then communicated, and you  
17 mentioned the relief society and some other folks, when  
18 you say the decision is communicated, is the reason for  
19 the decision also communicated, not just that they were  
20 excommunicated but they were excommunicated for  
21 molesting children?  
22 A. It was not in this case because, as I said, I  
23 believe most people knew that by this time. The man was  
24 required to report to the church -- to the legal  
25 authorities as one issue that would have to be

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1 considered before he could ever be considered for  
2 readmission to the church. There were certain  
3 stipulations of which him disclosing and taking  
4 responsibility were required of him and he complied, so  
5 I really didn't feel the need to go make the public  
6 announcements.  
7 Q. If the church membership had not had general  
8 knowledge --  
9 A. Okay.  
10 Q. -- that this person had molested children,  
11 would the reason for the excommunication have been  
12 communicated to these organizations within the church  
13 that you've testified to?  
14 MR. ERNST: Object to the form, calls for  
15 speculation.  
16 Q. I'm asking you to testify again on behalf of  
17 the church as their designee to testify.  
18 MR. ERNST: That doesn't change my objection.  
19 It calls for speculation.  
20 A. I could answer that on the basis of what I  
21 would do with my knowledge. It's difficult for me to  
22 say I'm speaking for the church in this because I've  
23 never faced that issue.  
24 MR. KILMER: In that event, I want to join in  
25 his objection. Whatever he says has no validity at all

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1 as to either churches or what other people in the church  
2 should do or are supposed to do.  
3 A. I would handle that by telling the individual  
4 that I would need to inform those where there could be a  
5 potential for abuse or victims, and I would inform them.  
6 And if it were in the context of a meeting, that's -- of  
7 the priesthood or the relief society, that's where I  
8 would do so.  
9 Q. And when you say you would inform them, you  
10 would inform not only that the individual had been  
11 excommunicated, but that they had been excommunicated  
12 for child molestation?  
13 MR. ERNST: Object to the form. It calls for  
14 speculation.  
15 MR. KILMER: I think you're saying more than  
16 he intended to say.  
17 A. I think you're taking it further than I'd  
18 like. I believe I would say that he has been  
19 excommunicated, and I think for the well-being of your  
20 children you should not have them at any event where he  
21 might be left alone with them. I would probably say  
22 something to that effect, which I believe would convey  
23 the message, but I don't like publicly identifying  
24 somebody as a predator, as such, because that becomes a  
25 judgmental thing that I'm not sure I'm privileged to

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1 identify. That's almost a legal term rather than an  
2 ecclesiastical.  
3 Q. Assuming now that the decision of the  
4 disciplinary council was based on a finding of the  
5 disciplinary council that this individual had in fact  
6 molested a child, and assuming again that you told the  
7 individuals you believe needed to know that they should  
8 not allow their children, I believe that was your  
9 testimony, to be around this person, what if the person  
10 asked you why not? What would you say?  
11 MR. ERNST: Object to the form, speculation,  
12 assumes facts not in evidence.  
13 A. I would not feel privileged to disclose this  
14 individual's personal confession about details of the  
15 transgression because I don't believe it would be  
16 necessary. I believe if I told people he'd been  
17 excommunicated and for the safety of their children they  
18 need to keep them away from him, I believe the  
19 information is there.  
20 Q. And you believe that by telling them that they  
21 need to keep their children away, they will understand  
22 you to mean that he's a danger to children?  
23 A. Yes, or could be.  
24 Q. Or could be?  
25 A. Yes.



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1 agrees that it is.  
 2 MR. ERNST: No, it's not.  
 3 Q. (By Mr. Salmi) So given that example, you said  
 4 that first the bishop would try to get the person to  
 5 report themselves, to turn themselves in, then they  
 6 would try to get the person who gave them the initial  
 7 information to turn them in.  
 8 A. Right.  
 9 Q. Why wouldn't the bishop simply turn them in?  
 10 MR. ERNST: Object to the form. You've  
 11 assumed that somebody who is not the molester can't give  
 12 confidential information. That was my objection.  
 13 MR. KILMER: And it was a good one.  
 14 MR. ERNST: Thank you. You assume that a  
 15 molester is the only one who can give confidential  
 16 information. Object to the form.  
 17 A. The bishop would have learned this secondhand  
 18 from the individual who came to him. I think it would  
 19 be better if the individual who learned this or knew  
 20 this themselves went to children's services or to the  
 21 police department. There's no reason the bishop could  
 22 not do it, but -- and he may do it, but if someone else  
 23 makes the report who knows personally, it seems better.  
 24 Q. And isn't it the policy of the Mormon church  
 25 that bishops are to attempt to have other people report

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1 the abuse rather than reporting it themselves?  
 2 A. Generally that's true because the other person  
 3 may know more firsthand or immediate information, so  
 4 yes.  
 5 Q. Does that hold true with stake presidents as  
 6 well, that same concept, that they should attempt to get  
 7 the abuser first to report themselves, and if they  
 8 can't, then to find somebody else to report the abuse?  
 9 A. Yes.  
 10 Q. If the parent of a child in a ward comes to  
 11 the bishop and says, my child was molested by Brother  
 12 Smith in our ward and I want you to do something about  
 13 it, under the policy of the Mormon church, is that  
 14 considered a confidential communication?  
 15 MR. ERNST: Thank you.  
 16 A. Well, that's certainly not a confession but it  
 17 could be confidential, but I don't believe it would be a  
 18 protected confidential disclosure.  
 19 Q. Now, you've made a distinction here between  
 20 confidential and protected confidential, and I want you  
 21 to tell me what you mean by that.  
 22 A. Well, again, if the -- if in the course of the  
 23 offender confessing to the bishop or if in the course of  
 24 any meetings such as the disciplinary council any of  
 25 this information comes out, then the stake president

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1 would not be able to report it. If he learns about this  
 2 in another setting where an individual comes to him, he  
 3 very well may disclose it.  
 4 Q. And that was the example I gave you. I wasn't  
 5 raising this in the context of a disciplinary proceeding  
 6 where the information comes in there, but simply a  
 7 parent comes to the bishop and says, my child was  
 8 molested by Brother Smith, --  
 9 A. Okay.  
 10 Q. -- do something about it. Is that, under the  
 11 policy and doctrine of the Mormon church, considered a  
 12 confidential communication?  
 13 A. No, I don't believe so.  
 14 Q. And couldn't, under those circumstances, the  
 15 bishop go directly to the police and report that?  
 16 A. He could, and likely would, but he would also  
 17 encourage that parent to immediately go to the police.  
 18 Q. And is it the policy of the Mormon church that  
 19 under those circumstances the bishop would first go to  
 20 the accused person and confront them with the accusation  
 21 before reporting it to the police or anyone else?  
 22 A. If it could be done expeditiously, I believe  
 23 he would.  
 24 Q. And when such a confrontation is made, does  
 25 the Mormon church have any policy to avoid a situation

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1 where the alleged perpetrator flees the jurisdiction or  
 2 destroys evidence before they're reported to the police?  
 3 A. There's no policy on that in that regard.  
 4 Q. As a bishop, wouldn't you have that concern?  
 5 If you confronted somebody who had been accused of  
 6 molesting a child before you reported him to the police,  
 7 wouldn't you have a concern that they might flee?  
 8 A. I've not ever seen that happen. These are  
 9 generally people that live within the ward, I believe,  
 10 and I don't know that that would be a likely thing to  
 11 occur. It could happen, but I wouldn't be greatly  
 12 concerned.  
 13 Q. And again, under circumstances where someone  
 14 outside the context of a disciplinary proceeding reports  
 15 that some other member of the ward has molested their  
 16 child, under those circumstances, is report of the abuse  
 17 to law enforcement always made? Is that the policy of  
 18 the Mormon church?  
 19 MR. ERNST: I object to the form. It calls  
 20 for him to speculate.  
 21 A. I cannot say it always is. Ideally it is.  
 22 Q. That would be the policy of the church?  
 23 A. Yes, I believe so.  
 24 Q. To have it reported?  
 25 A. Yes, I believe it is.